

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #7	CCRB Case #: 201908498	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/13/2019 10:55 PM	Location of Incident: § 87(2)(b)	Precinct: 121	18 Mo. SOL 3/13/2021	EO SOL 10/28/2021	
Date/Time CV Reported Sat, 09/14/2019 9:48 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/25/2019 11:06 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Richard Degaetano	5660	951663	VED ZN2
2. DT3 Michael Wolfe	05987	952354	VED ZN2
3. LT Terrance Mccall	00000	935274	VED ZN2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas Atsaves	17868	952430	VED ZN2
2. POM Anthony Bottigliere	13904	950093	VED ZN2
3. SGT Michael Osullivan	04176	904685	BARRIER
4. DT3 Everton Smith	05755	947499	VED ZN2

Officer(s)	Allegation	Investigator Recommendation
A.LT Terrance Mccall	Abuse: Lieutenant Terrance Mccall entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
B.DT3 Richard Degaetano	Abuse: Detective Richard Degaetano entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
C.DT3 Michael Wolfe	Abuse: Detective Michael Wolfe entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
D.LT Terrance Mccall	Abuse: Lieutenant Terrance Mccall searched § 87(2)(b) in Staten Island.	§ 87(2)(b)
E.DT3 Richard Degaetano	Abuse: Detective Richard Degaetano searched § 87(2)(b) in Staten Island.	§ 87(2)(b)
F.DT3 Michael Wolfe	Abuse: Detective Michael Wolfe searched § 87(2)(b) in Staten Island.	§ 87(2)(b)

## Case Summary

On September 14, 2019, § 87(2)(b) and § 87(2)(b) called IAB and filed separate complaints regarding this incident. IAB sent two referral logs to the CCRB, and the CCRB received both on September 25, 2019. A duplicate CCRB case number, § 87(2)(b) was combined with this complaint and closed.

At approximately 10:55 p.m. on September 13, 2019, Det. Richard Degaetano, Det. Michael Wolfe, and Lt. Terrence McCall of Zone 2 of the Vice Enforcement Division oversaw an undercover operation at an unlicensed bottle club located at § 87(2)(b) in Staten Island. After undercover officers entered the club and purchased alcohol, Det. Degaetano, Det. Wolfe, and Lt. McCall entered the club and arrested four employees: § 87(2)(b) (the club owner), § 87(2)(b) (a club manager), § 87(2)(b) (a bartender) and § 87(2)(b) (another bartender) (**Allegations A, B, and C: Abuse of Authority: Entry of premises:** § 87(2)(g)). The officers then opened a locked storage room to retrieve a digital video recorder (DVR) that contained video of the undercover officers (**Allegation D, E, and F: Abuse of Authority: Search of premises:** § 87(2)(g)). § 87(2)(b) a co-owner of the club, observed a portion of the incident remotely over the club's surveillance system.

The investigation obtained no video of this incident. According to Det. Degaetano, the involved officers were not equipped with body-worn cameras (BWCs), and a request for BWC video yielded negative results from the NYPD's Legal Bureau. The civilian surveillance system that was reportedly operating during the incident was seized and vouchered by the NYPD (see **Allegations D through F** below).

This incident was the first in a series of three incidents involving Det. Degaetano taking enforcement action at § 87(2)(b)'s unlicensed club. CCRB case #§ 87(2)(b) involves a similar incident, approximately two months after this incident, in which Det. Degaetano arrested § 87(2)(b) and then obtained a search warrant for his club. CCRB case #§ 87(2)(b) involves the third incident in the series, approximately three months after this incident, in which Det. Degaetano returned to the club as part of a multi-agency operation.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Detective Richard Degaetano entered § 87(2)(b).**

**Allegation (B) Abuse of Authority: Detective Michael Wolfe entered § 87(2)(b).**

**Allegation (C) Abuse of Authority: Lieutenant Terrance McCall entered § 87(2)(b).**

§ 87(2)(b) provided a sworn statement at the CCRB on October 14, 2019 (**Board Review 01**). § 87(2)(b) provided a sworn statement at the CCRB on October 14, 2019 (**Board Review 02**). § 87(2)(b) provided a sworn statement at the CCRB on November 4, 2019 (**Board Review 03**). Det. Degaetano was interviewed on February 5, 2020 (**Board Review 04**).

In their sworn statements, all three interviewed civilians described the incident location as a “member’s only club” and complained that officers entered the location without appropriate authority. The civilians all identified § 87(2)(b) as the club’s owner and leading authority, and he provided the most detailed description of the club’s operation. § 87(2)(b) opened the club on July 4, 2019. To become a member, a person would give their driver’s license or other ID to § 87(2)(b) who would copy the information on to a membership card along with a photo. The membership card has a member number on it, and § 87(2)(b) keeps track of the memberships. Membership cost \$30 per month and members could enter the club for free. If a person was not a member, however, they could enter by paying \$5 at the door. Furthermore, for the first two months of operation, everyone got in free regardless of membership status.

§ 87(2)(e)

In his interview, Det. Degaetano stated that prior to the incident, the 121st Precinct received a civilian complaint that an unlicensed bar was selling alcohol inside the incident address. Det. Degaetano performed surveillance of this address and saw a sign that read “members only.” However, an unknown officer from the 121st Precinct told Det. Degaetano that the managers were letting everyone in at the time to grow their membership since they had just opened.

On the incident date, Det. Degaetano and his team went to the incident address.

§ 87(2)(e)

The investigation obtained investigative records of this incident (referred to as DD5s) from Vice Enforcement Division Zone 2 (**Board Review 05**). § 87(2)(e)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Detective Richard Degaetano searched § 87(2)(b)**

**Allegation (E) Abuse of Authority: Detective Michael Wolfe searched § 87(2)(b)**

**Allegation (F) Abuse of Authority: Lieutenant Terrance McCall searched § 87(2)(b)**

§ 87(2)(b) provided a telephone statement on October 4, 2019 (**Board Review 06**).

In his telephone statement, § 87(2)(b) stated that he was a co-manager of the incident club along with § 87(2)(b). While he was never on scene on the incident date, he saw parts of this incident on his smartphone, which ran an application that allowed him to watch a live video feed from the club's surveillance system. The feed apparently cut out when officers seized surveillance equipment.

It is undisputed that the incident club is a single, relatively small room, and that there were approximately five patrons in the club in the lead up to the officers' entry. The club's surveillance system DVR was in a small storage room at the club's rear, behind a closed door. The surveillance system DVR was plugged into a television showing the security video mounted on the wall of the main club room. While § 87(2)(b) stated that the storage room was locked and that officers took his keys to open it, Det. Degaetano did not recall whether this door was locked.

In his interview, Det. Degaetano stated that he went into the rear storage room to get the footage on the DVR. § 87(2)(e) He knew the DVR was in that room because there were wires from the television running into that room. Det. Degaetano had no other reason to enter the rear storage room.

A police officer may enter a protected area without a warrant or the occupant's consent under the emergency doctrine if two prongs are met. First, the officer must have reasonable grounds to believe that there is an emergency at hand and an immediate need for assistance in the protection of life or property. Second, there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. (*People v. Rodriguez*, 77 A.D.3d 280 (2d Dept. 2010)) (**Board Review 07**).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

## Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to 8 other CCRB complaints and has been named as a victim in 35 other allegations (**Board Review 08**).
  - § 87(2)(b)
- § 87(2)(b) has been party to one other CCRB complaint and has been named as a victim in two other allegations (**Board Review 09**).
  - § 87(2)(b)
- Det. Wolfe has been a member-of-service for 9 years and has been a subject of 4 prior cases and 16 allegations, none of which were substantiated. In the two related complaints regarding § 87(2)(b)'s club, Det. Wolfe is a subject of one additional allegation.
- Det. Degaetano has been a member-of-service for 9 years and has been a subject in 3 prior cases and 5 allegations, none of which were substantiated. In the related complaints regarding § 87(2)(b)'s club, Det. Degaetano is a subject of three additional allegations.
- Lt. McCall has been a member-of-service for 16 years and has been a subject in 7 prior cases and 17 allegations, none of which were substantiated. § 87(2)(g)

## Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A request for any Notice of Claim filed regarding this incident has been submitted to the Office of the NYC Comptroller and the results will be added to the case file upon receipt.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Squad No.: 7

Investigator: Matthew Chaves      SI Matthew Chaves      05/19/2021  
Signature      Print Title & Name      Date

Squad Leader: \_\_\_\_\_

Signature \_\_\_\_\_

Manager Vanessa Rosen \_\_\_\_\_

Print Title & Name \_\_\_\_\_

May 21, 2021 \_\_\_\_\_

Date \_\_\_\_\_

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_